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DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
FOR
THE LONDON RENT ASSESSMENT PANEL
LANDLORD & TENANT ACT 1985
COMMONHOLD AND LEASEHOLD REFORM ACT 2002.

Section 20ZA.

Reference: LON/00AG/LDC/2005/0046
LON/00AG/LDC/2005/0043

Premises: All right to buy premises in London Borough of Camden.

Applicant: London Borough of Camden

Respondents: Various Right to Buy Lessees

Applications received: 25th November 2005 (electricity)
8 December 2005 (gas)

Attendances: Ms E Howells (LBC Home Ownership))For the
Ms K. Turton (LBC Culture & Environment))Applicant
Mr P Cooper (LBC Housing Finance))

No appearances on behalf of the Respondents

Date of Hearing: 18th January 2006.

Tribunal: Miss A Hamilton-Farey FRICS, FCI Arb
Mr. M. Mathews FRICS

Date of Decision: Oral Decision given 18th January 2006
Written Decision and Reasons dated 27th January 2006.

Decision:

The Applications are granted. In the consultation exercise currently being carried out by the London Borough of Camden in respect of gas and electricity supply to all of its dwellings, in respect of the proposal to enter into a long term agreement, the requirements of Schedule 2, paragraphs 4 to 8 of the Service Charge (Consultation Requirements)(England) Regulations 2003 are hereby dispensed with.

1.0 Background:

1.0 The Tribunal has received applications from the Landlord, the London Borough of Camden, for dispensation with Section 4-8 of Schedule 2 of the Service Charge (Consultation Requirements) (England) Regulations 2003 in respect of long term agreements for gas and electrical supplies to its properties in the borough.

1.2. In particular the Landlord seeks dispensation for the reason that it cannot identify which of its lessees will be responsible for a charge of more than £100 per annum under the terms of the contract.

1.3. The landlord intends to enter into the contracts at the most opportune moment to ensure value for money and consistency of supply.

1.4. The landlord has already commenced the consultation process with lessees having served Notices of Intention and making available documents. Dropin meetings were also arranged at which lessees could attend to make known their observations. Several observations have been made in respect of both contracts and the Tribunal has been provided with copies of these and the responses to them.

1.5. In its submissions, the landlord informed the Tribunal that they used the services of Kent County Council who procured fuel on behalf of 68 local authorities. That all contracts are tendered in accordance with EU procurement rules and the Council's own standing orders. Finally, that the most economically advantageous price is accepted unless there were exceptional circumstances not to accept (for example a supplier being in financial difficulties)

2.0 The Law.

Section 20 of the Landlord & Tenant Act 1985 requires landlords to consult with tenants who are required to pay more than £100 per annum for any contract that exceeds 12 months in duration ("A qualifying long term agreement"). The Service Charges (consultation requirements)(England) Regulations 2003 in particular set out the form and content of notices to be served under the Act.

A party may apply to the LVT for a dispensation with all or some of the requirements of S.20 under S.20ZA of the Act, and the Tribunal may dispense with the requirements if it considers it reasonable to do so.

In this instance the landlord is seeking to dispense with section 4-8 of Schedule 2 which requires:-

2.1. That the landlord prepares a notice of proposal which shall estimate the tenants contribution to be incurred and which shall also set out the duration of the agreement.

2.2. That the landlord will serve, or make available, copies of the notice of proposal to each tenant and provide for a period of 30 days in which the tenant may make observations. The landlord has a duty to have regard to those observations and shall provide responses to them within 21 days of their receipt.

2.3. Finally that the landlord shall estimate the amount, cost or daily rate of the cost of the contract to each tenant.

3.0 Decision:

3.1 Having regard to the submissions made and the papers supplied the Tribunal is of the opinion that it would be impractical for the landlord to comply with sections 4-8 of Schedule 2 to the Regulations in that it cannot in advance calculate the cost to an individual tenant, nor can it calculate with any certainty how many individual tenants will be required to pay in excess of £100 per annum.

3.2 The Tribunal therefore considers that dispensation with these sections of the regulations is essential for the proper procurement of the contract.

3.3 In coming to this decision the Tribunal reminded the landlord that dispensation with any or all of the requirements of the Act does not indicate that the cost itself is reasonable or that the service provided is of a reasonable standard. The landlord was made aware that the tenants may, if they wish, make an application when they have received their bills for the Tribunal to determine their liability to pay.

Tribunal:
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Date: 6 FEBRUARY 2006